

5708

Iannicelli
P.L.I

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-190886

DATE: March 16, 1978

MATTER OF: Dynatrend, Incorporated

DIGEST:

1. Protest filed after closing date for receipt of initial proposals against allegedly unreasonable and prejudicial response time allowed for preparation of proposals and allegedly unreasonable and prejudicial time and place specified for submission of proposals which were apparent prior to closing date for receipt of initial proposals is untimely and not for consideration under section 20.2 (b)(1) of Bid Protest Procedures.
2. Although protester contends that response time allowed to prepare proposals and time and place specified for submission of proposals were unreasonable and prejudicial to several late offerors, sufficiency of solicitation sources is determined by whether adequate competition and reasonable prices were obtained. In present case, where 10 timely proposals were received and over half of those were within agency price estimate, adequate competition and reasonable prices were obtained.

On December 12, 1977, Dynatrend, Incorporated, filed a protest against award of any contract under request for proposals (RFP) No. EC-78-R-03-1734, issued by the Department of Energy (DOE) on November 8, 1977.

The RFP was a 100-percent set-aside for small business concerns and involved "Conference, Workshop, and Seminar Coordination." The RFP contained a geographic restriction which limited participation to small businesses with offices located within 50 miles of Washington, D.C. Proposals were due at 10 a.m. on December 5, 1977, at the DOE San Francisco Operations

B-190886

Office. Dynatrend airfreighted its proposal on December 2, 1977. However, the driver for the commercial carrier used by Dynatrend to deliver the proposal got lost, the proposal was delivered 2 hours late, and DOE rejected Dynatrend's proposal as late.

Dynatrend bases its protest upon the following arguments:

1. Dynatrend contends that the short response time allowed for preparation of proposals was unreasonable and prejudicial to several offerors.
2. The time and place specified in the RFP for submission of proposals were unreasonable and prejudicial given the restriction of participation to small businesses with offices located within 50 miles of Washington, D.C., and the 3-hour time differential between Washington and San Francisco.
3. Dynatrend alleges that fair and free competition was not obtained in this procurement since at least three other proposals were rejected by DOE as late proposals. Dynatrend attributes the fact that the proposals were rejected to the alleged unreasonable nature of the response time and the time and place specified for submission of proposals.

Regarding Dynatrend's allegations that the response time and the time and place required for submission of proposals were unreasonable and prejudicial to several offerors, these issues concern alleged improprieties in the solicitation which were apparent prior to the closing date set for receipt of initial proposals. Under our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1977), a protest based upon an alleged impropriety in a solicitation which is apparent prior to the closing date for receipt of initial proposals

B-190886

must be filed prior to the closing date for receipt of initial proposals in order to be considered by our Office. Accordingly, these issues are untimely and will not be considered on the merits. While not agreeing that these issues are untimely, Dynatrend urges our Office to consider them under section 20.2(c) of our Bid Protest Procedures because they raise issues "significant to procurement practices and procedures." The significant issue exception is limited to issues which are of widespread interest to the procurement community and is exercised sparingly so that the timeliness standards do not become meaningless. See Burroughs Corporation, B-187769, July 12, 1977, 77-2 CPD 16. We find nothing in the record to warrant invoking this exception in the present case.

Dynatrend's contention that competition was not adequate in the subject procurement is timely and will, therefore, be considered. We have held that questions concerning the adequacy of solicitation sources must be determined on the basis of whether adequate competition and reasonable prices were obtained, and not on whether every possible offeror was afforded an opportunity to submit an offer. See Donaldson Company, Inc., B-183657, September 15, 1975, 75-2 CPD 148. Although 4 proposals were rejected as late proposals, since 10 proposals were timely submitted and over half were within the DOE cost estimate, we conclude that adequate competition and reasonable prices were obtained under the subject RFP.

Accordingly, the protest is denied.

R. F. K. ...
Deputy Comptroller General
of the United States